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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/659,366	09/12/2000	John C. Johnson	4795.05	9028

7590

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EXAMINER

APPIAH, CHARLES NANA

ART UNIT

PAPER NUMBER

2686

DATE MAILED: 02/02/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/659,366

Applicant(s)

JOHNSON, JOHN C.

Examiner

Charles Appiah

Art Unit

2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed on 10/24/03 have been fully considered but they are not persuasive. In regard to Applicant's argument that the obviousness type double patenting of claims 1-16 is improper, examiner maintains that the claims of the instant invention are broad enough to be encompassed by the limitations of the claims of Applicant's issued patent (6,141,406) and that the combination of the claims of the patent and the Pennypecker reference as set forth in the previous Office Action still read on the claims of the instant Application.

In view of the above the obviousness-type double patenting rejections are maintained as repeated below. This rejection is made FINAL.

### ***Double Patenting***

2. Claims 1-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,141,406 in view of Pennypacker et al. (5,777,558).

Regarding claims 1-2, claims 1 and 2 of the patent meet all limitations except the feature of comparing the identified echo characteristic with at least one stored value for the echo characteristic from previous connection between the local telephone and the remote telephone to determine whether there is a significant difference between the identified echo characteristic and the stored echo characteristic.

Pennypacker discloses a method for detecting fraudulent use of a communication system that includes the monitoring of a system parameter (see

abstract). According to Pennypacker and as illustrated in Figures 2-4, a system parameter is determined and compared to a previous system parameter that was stored to ascertain for differences, and when the difference between the system parameter and the previously stored system parameter is greater than a predetermined amount an alarm is raised to indicate a potential fraudulent activity (see col. 3, line 23 to col. 4, line 65). Pennypacker teaches various system parameters that can be used as indicators of fraudulent use (see col. 1, line 61 to col. 2, line 7), including parameters that should vary slowly.

It would therefore have been obvious to one of ordinary skill in the art to combine the teaching of Pennypacker with claims 1 and 2 of the patent in order to monitor any desired system parameter that should vary slowly including echo characteristics for detecting fraudulent activities.

Claims 3-10 read on claims 3-10 of the patent.

Claims 11-12 read on claims 13-14 of the patent.

Claims 13-16 read on claims 17-20 of the patent.

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Garcia et al. (5,724,404) discloses an integrated call telephone circuit monitoring system.

Otake (6,084,948) discloses a voice monitoring system.

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Rocha (6,295,446) discloses a method for detecting fraudulent calls in a radio network.

Betts et al. (6,327,352) discloses a system for real-time fraud detection in a telecommunications system.

Townsend et al. (5,577,116) discloses an apparatus for echo characterization of a communication channel.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Appiah whose telephone number is 703 305-4772. The examiner can normally be reached on M-F 7:30AM-5:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 703 305-4379. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 306-0377.

CA  
January 26, 2004

  
**CHARLES APPIAH**  
**PRIMARY EXAMINER**